

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
MARTINSBURG**

HARVEY R. JOHNSON,

Plaintiff,

v.

**CIVIL ACTION NO.: 3:22-CV-56
(GROH)**

UNITED STATES OF AMERICA,

Defendant.

ORDER ADOPTING REPORT AND RECOMMENDATION

Now before the Court is a Report and Recommendation (“R&R”) issued by United States Magistrate Judge Robert W. Trumble. ECF No. 33. Pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule of Prisoner Litigation Procedure 2, this civil action was referred to Judge Trumble for submission of a proposed R&R. Judge Trumble issued an R&R on February 12, 2023, recommending that the Plaintiff’s Complaint [ECF No. 1] be denied and dismissed without prejudice.

Pursuant to 28 U.S.C. § 636(b)(1)(C), this Court is required to make a de novo review of those portions of the magistrate judge’s findings to which objection is made. However, the Court is not required to review, under a de novo or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. Thomas v. Arn, 474 U.S. 140, 150 (1985). Failure to file timely objections constitutes a waiver of de novo review and of the Plaintiff’s right to appeal this Court’s Order. 28 U.S.C. § 636(b)(1); Snyder v. Ridenour, 889 F.2d 1363, 1366 (4th Cir. 1989); United States v. Schronce, 727 F.2d 91, 94 (4th Cir. 1984).


Objections to Magistrate Judge Trumble's R&R were due within fourteen plus three days of the Plaintiff being served with a copy of the same. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b). The Plaintiff accepted service of the R&R on February 23, 2023. ECF No. 34. Upon motion of the Plaintiff, the Court granted the Plaintiff an extension to April 18, 2023, to file his objections. ECF Nos. 35, 36.

As of the date of this Order, no objections have been filed. Therefore, after allowing additional time for transit in the mail, the Court finds that the deadline for the Plaintiff to submit objections to the R&R has passed without submission from the Plaintiff. Accordingly, this Court will review the R&R for clear error.

Upon careful review of the R&R, it is the opinion of this Court that Magistrate Judge Trumble's Report and Recommendation [ECF No. 33] should be, and is hereby, **ORDERED ADOPTED**. For the reasons more fully stated in the R&R, the Court **ORDERS** that the Plaintiff's Complaint [ECF No. 1] be **DISMISSED WITHOUT PREJUDICE** and the Defendant's Motion to Dismiss [ECF No. 18] be **GRANTED**.

The Clerk of Court is **DIRECTED** to **STRIKE** this case from the Court's active docket. The Clerk is **FURTHER DIRECTED** to mail a copy of this Order to the pro se Plaintiff by certified mail, return receipt requested, at his last known address as reflected on the docket sheet.

DATED: July 13, 2023


GINA M. GROH
UNITED STATES DISTRICT JUDGE